

**FEDERAL TRANSIT ADMINISTRATION (FTA)
CONTRACT CLAUSES**

MATERIALS and NON-CONSTRUCTION SERVICES

Revised: August 2023

FEDERAL TRANSIT ADMINISTRATION CONTRACT CLAUSES

INDEX

1. Fly America Requirements
2. Cargo Preference Requirements
3. Energy Conservation Requirements
4. Federal Changes
5. No Government Obligation to Third Parties
6. Program Fraud and False or Fraudulent Statements or Related Acts
7. Termination
8. Civil Rights Requirements
9. Disadvantaged Business Enterprise (DBE) Requirements
10. Buy America Requirements
11. Build America, Buy America Act
12. Clean Water Requirements
13. Lobbying
14. Access to Records and Reports
15. Clean Air
16. Recycled Products
17. Contract Work Hours and Safety Standards Act
18. Government-Wide Debarment and Suspension (Nonprocurement)
19. Breaches and Dispute Resolution
20. Right of Protest
21. Incorporation of Federal Transit Administration (FTA) Terms
22. Compliance with Federally Required Clauses and Requirements
23. Americans with Disabilities Act (ADA)
24. Prompt Payment and Return of Retainage
25. Safe Operation of Motor Vehicles
26. Substance Abuse
27. Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, Abuse, or Other Legal Matters
28. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
29. Patent Rights and Rights in Data
30. Assignability Clause
31. Special Notification Requirements for States
32. Conformance with National Intelligent Transportation Systems (ITS) Architecture
33. Transit Employee Protective Arrangements
34. Charter Service Operations
35. School Bus Operations

FEDERAL TRANSIT ADMINISTRATION (FTA) CONTRACT CLAUSES

1. FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118
41 CFR Part 301-10
48 CFR Part 47.4

Applicable to: *All contracts that have transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.*

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 55305
46 CFR Part 381

Applicable to: *All contracts involving equipment, materials, or commodities which may be transported by ocean vessels.*

Use of United States-Flag Vessels. The Contractor agrees:

- (1) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.
- (2) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington D.C. 20590 and the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading.)
- (3) to include these requirements in all subcontracts issued pursuant to the contract when the subcontract may involve the transport of equipment, materials, or commodities by ocean vessel.

3. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 622 subpart C

Applicable to: All contracts.

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

4. FEDERAL CHANGES

49 CFR Part 18
2 CFR 200

Applicable to: All contracts.

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA current version – example (23 dated October 2016) between City Utilities and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

5. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicable to: All contracts.

(1) City Utilities and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

31 U.S.C. 3801 et seq.
49 CFR Part 31, 18 U.S.C. 1001
49 U.S.C. 5307

Applicable to: All contracts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations "Program Fraud Civil

Remedies,” 49 CFR Part 31, apply to its actions pertaining to this contract. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

7. TERMINATION

2 CFR Part 200 Appendix II (B)
FTA Circular 4220.1F

Applicable to: *All contracts in excess of \$10,000.*

(1) Termination for Convenience (General Provision): City Utilities may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the City Utilities' best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to City Utilities to be paid the Contractor. If the Contractor has any property in its possession belonging to City Utilities, the Contractor will account for the same, and dispose of it in the manner City Utilities directs.

(2) Termination for Default [Breach or Cause] (General Provision): If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, City Utilities may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by City Utilities that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, City Utilities, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

(3) Opportunity to Cure (General Provision): City Utilities in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to City Utilities' satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from City Utilities setting forth the nature of said breach or default, City Utilities shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude City Utilities from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(4) Waiver of Remedies for any Breach: In the event that City Utilities elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City Utilities shall not limit City Utilities' remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

This Termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

8. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicable to: All contracts.

(1) Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity

(a) Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (US DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal

Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, " 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

49 CFR Part 26

Applicable to: All contracts.

(1) The Federal Fiscal Year goals have been set by City Utilities in an attempt to match projected procurements with available qualified disadvantaged businesses. City Utilities' goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established by City Utilities as set forth by the Department of Transportation Regulations 49 CFR Part 26, and is considered pertinent to any contract resulting from this request for quotation/proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the bid documents, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBEs in the work provided, City Utilities may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the bid documents, it will be understood that no specific goal is assigned to this contract.

(a) Policy – It is the policy of the Department of Transportation and City Utilities that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of Contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26, apply to this Contract. It is also the policy of City Utilities to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs; and
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.

The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26, have the maximum opportunity to participate in whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts.

The Contractor or sub-recipient shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT -assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City Utilities the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

If is further the policy of City Utilities to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of City Utilities procurement activities are encouraged.

(b) DBE obligation – The Contractor and its subcontractors agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

(c) Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBEs in the work provided, City Utilities may declare the contractor noncompliant and in breach of contract. Guidance concerning good faith efforts may be found in the bid documents and are also listed in City Utilities' Disadvantaged Business Enterprise Program document.

(d) The Contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with City Utilities' DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of City Utilities and will be submitted to City Utilities upon request.

(e) CITY UTILITIES will provide affirmative assistance, as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBEs,
- Available listing of Minority Assistance Agencies,
- Holding bid conferences to emphasize requirements.

(2) Prime Contractors are encouraged to use the services of DBE banks.

(3) DBE Program Definitions:

(a) Disadvantaged business enterprise or DBE means a for-profit small business concern --

- i. That is at least 51 percent owned by one or individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or such individuals; and
- ii. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(b) Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (12 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

(c) Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is --

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- i. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;
- ii. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- iii. "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- iv. "Asian-Pacific American", which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of Pacific Islands (Republic of Palua), the Commonwealth of the Northern

- Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- v. "Subcontinent Asian Americans", which includes persons whose origins are from India, Pakistan, and Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - vi. Women;
 - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

10. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)

49 CFR Part 661

Applicable to: *Construction contracts and acquisition of goods or rolling stock in excess of \$150,000).*

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have at least 60 percent (65% in FY18 and FY19, 70% in FY20) domestic content depending on when the buses are delivered.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does apply to lower tier subcontractors.

11. BUILD AMERICA, BUY AMERICA ACT

Public Law 117-58, Division G, Title IX, §§ 70911-70927

Applicable to: *Construction materials.*

Construction materials used in the project (public transportation improvement activities eligible for federal assistance in an application to FTA and/or in an FTA award) are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

12. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251 – 1387

Applicable to: *All contracts and subcontracts in excess of \$150,000.*

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

13. LOBBYING

31 U.S.C. 1352

2 C.F.R. § 200.450

2 C.F.R. part 200 appendix II (J)

49 CFR Part 20

Applicable to: *Contracts for construction, architectural and engineering, acquisition of rolling stock, professional service contract, operational service contract, and turnkey contracts in excess of \$100,000.*

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

14. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

49 CFR 633.17

2 CFR 200.333

Applicable to: *All contracts.*

(1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor

access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

(2) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.

(3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. (If applicable)

(4) Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection. (If applicable)

(5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

(7) FTA does require the inclusion of these requirements in subcontracts.

15. CLEAN AIR
42 U.S.C. 7401 – 7671q
33 U.S.C § 1251-1388
2 CFR Part 200, Appendix II (G)

Applicable to: All contracts in excess of \$150,000.

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq and the Federal Water

Pollution Control Act as amended, 33 U.S.C. § 1251-1388. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

16. RECYCLED PRODUCTS

42 U.S.C. 6962
40 CFR Part 247
2 CFR Part 200.322
Executive Order 12873

Applicable to: *The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.*

The contractor agrees to comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6962) by the Resource Conservation and Recovery Act (RCRA), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

40 U.S.C. §§3701-3708
29 C.F.R. part 5
2 CFR 200 Appendix II (E)

Applicable to: *Contracts in excess of \$100,000 that involve the employment of mechanics or laborers.*

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Any records maintained under this section shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

18. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

2 C.F.R. part 180
2 C.F.R part 1200
2 C.F.R. part 200.213
2 C.F.R. part 200 Appendix II (I)
Executive Order 12549
Executive Order 12689

Applicable to: All contracts and subcontracts in excess of \$25,000.

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City Utilities. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City Utilities, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractors and subcontractors are also subject to a continuing duty of disclosure. Contractors and subcontractors must provide immediate written notice to City Utilities of Springfield if it learns that a person involved in a covered transaction has been excluded. City Utilities of Springfield must then provide written notice to the Federal Transit Administration.

19. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18
FTA Circular 4220.1F
2 CFR 200 Appendix II (A)

Applicable to: All contracts in excess of \$250,000.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by City Utilities, Manager - Purchasing. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Manager - Purchasing. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Manager – Purchasing shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by City Utilities, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Breach of Contract - The successful bidder shall be deemed in breach of contract if the successful bidder: fails to comply with any terms of the contract; fails to cure such noncompliance within five (5) calendar days from the date of written notice from City Utilities or such other timeframe, greater than five (5) calendar days, specified in the notice; fails to submit a written response to the notification from City Utilities within five (5) calendar days after the date of the notice.

Force Majeure - The successful bidder shall not be in breach of the contract as long as its default was due to causes beyond reasonable control (force majeure) and occurred without any fault or negligence on the part of both the successful bidder and its subcontractors.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between City Utilities and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Missouri.

Fees - All costs, expenses and attorney fees incurred by the Contractor in connection with any appeal, suit or claim regarding a dispute that is brought by the Contractor shall be paid by the Contractor.

20. RIGHT OF PROTEST

FTA Circular 4220.1F

Applicable to: All contracts

If a Contractor has a grievance with a solicitation or award, they may protest to the Manager-Purchasing within 14 days of award. The written protest shall include the name of the protestor, solicitation/contract number or description, and a statement of the grounds for protest. Protests should be filed with the Manager-Purchasing at the following address:

City Utilities of Springfield, Missouri
Manager-Purchasing
301 E. Central (65802)
P.O. Box 551
Springfield, MO 65801
Fax: (417) 831-8377

The Manager-Purchasing will investigate the complaint and decide whether the complaint is justified and if so, what corrective action should be taken. All decisions by the Manager-Purchasing are final.

The Federal Transit Administration will only entertain a protest that alleges City Utilities failed to follow the stated protest procedures. Such protests to FTA must be filed in accordance with FTA Circular 4220.1F.

Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has received actual or constructive notice of the recipient's final decision. Likewise, the protester must provide its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the recipient's failure to have or failure to comply with its protest procedures or failure to review the protest.

21. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Applicable to: All contracts.

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City Utilities requests which would cause City Utilities to be in violation of the FTA terms and conditions.

22. COMPLIANCE WITH FEDERALLY REQUIRED CLAUSES AND REQUIREMENTS

Applicable to: All contracts.

Contractor (bidder) is responsible for ensuring its compliance with all applicable Federal Transit Administration (FTA) requirements. Additionally, Contractor is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the contract, including all applicable FTA requirements.

Upon request of City Utilities or FTA, Contractor shall provide evidence of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of subcontractor's compliance, at all tiers.

23. AMERICANS WITH DISABILITIES ACT (ADA)

Applicable to: All contracts.

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or

be subjected to discrimination under any program or activity included in or resulting from this Agreement.

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112 and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor agrees that it will comply with the requirements of U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and U.S. Department of Transportation regulations, "Americans with Disabilities Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38, pertaining to facilities and equipment to be used in public transportation. In addition, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. Contractor also agrees to comply with any implementing requirements FTA may issue.

Contractor understands that it is required to include this Article in all subcontracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Authority deems appropriate.

24. PROMPT PAYMENT AND RETURN OF RETAINAGE

Applicable to: All contracts.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 calendar days from the receipt of each payment the prime contractor receives from City Utilities. The prime contractor agrees further to return retainage payments (if any) to each subcontractor within 15 calendar days after the subcontractor(s)' work is satisfactory completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of City Utilities. This clause applies to both DBE and non-DBE subcontractors. The prime contractor and its subcontractors shall further comply with Section 34.057 of the Revised Statutes of the State of Missouri regarding prompt payment, to the extent applicable.

It is the responsibility of the subcontractors to notify City Utilities' DBE Liaison Officer (see City Utilities' DBE Program for current DBE Liaison Officer which is available on our website: <https://www.cityutilities.net/purchasing/fta/>) of prime contractor noncompliance with the above prompt payment provisions. Upon receipt of such notification, City Utilities will investigate and take appropriate action. Such investigation may include meeting with both the prime contractor and the subcontractor.

The prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

In order to enforce the provision of this section, City Utilities may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract

clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after payment to the prime contractor.

1. Assess liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor; and/or
2. Pay subcontractors directly and deduct this amount from the retainage owed to the prime contractor; and/or
3. Issue a stop-work order until payments are released to subcontractors, which shall constitute unauthorized delays by the prime contractor for the purposes of calculating liquidated damages if milestones are not met; and/or
4. Any other action authorized for enforcement of provisions of this agreement.

25. SAFE OPERATION OF MOTOR VEHICLES

23 U.S.C. part 402
Executive Order No. 13043
Executive Order No. 13513
U.S. DOT Order No. 3902.10

Applicable to: All contracts.

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or City Utilities of Springfield Missouri.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

26. SUBSTANCE ABUSE

41 U.S.C. § 8103
49 U.S.C. § 5331
2 CFR Part 182
49 CFR Part 32
49 C.F.R. part 40
49 C.F.R. part 655

Applicable to: Third party contractors who perform safety-sensitive functions in Transit Operations for Sections 5307, 5309, and 5311 projects must comply with FTA’s substance abuse management program under 49 C.F.R. part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.” Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

1. *Operating a revenue service vehicle, including when not in revenue service;*

2. *Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;*
3. *Controlling dispatch or movement of a revenue service vehicle;*
4. *Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;*
5. *Carrying a firearm for security purposes.*

Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

Drug-Free Workplace: The Recipient agrees to:

- (1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.
- (2) Comply with U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 CFR Part 32; and
- (3) Follow and facilitate compliance with U.S. OMB regulatory guidance, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.

Alcohol Misuse and Prohibited Drug Use: The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 U.S.C § 5331, 49 C.F.R. parts 40 and 655, and agrees to produce any documentation necessary to establish its compliance and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Missouri, or City Utilities of Springfield Missouri, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with the aforementioned codes before the contract is awarded and to submit the Management Information System (MIS) reports before contract award to the City Utilities project manager. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR Part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

27. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

FTA Master Agreement §39(b)

Applicable to: *Contracts in excess of \$25,000.*

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify City Utilities, which will promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which City Utilities is located. The Contractor must include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

– The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

– Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement between the FTA and City Utilities, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

Additional Notice to U.S. DOT Inspector General. The Contractor must promptly notify City Utilities, which will promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which City Utilities is located, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement with City Utilities involving a principal, officer, employee, agent, or Third Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions

28. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

2 CFR 200.216

Applicable to: All contracts.

The contractor is prohibited from obligating or expending federal funds to:

1. Procure or obtain
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part

of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment or services" is:

- a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)
- b. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- c. Telecommunications or video surveillance services provided by such entities or using such equipment.
- d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

The Contractor shall not provide covered telecommunications equipment or services in the performance of this contract.

29. PATENT RIGHTS AND RIGHTS IN DATA

37 CFR Part 401
49 CFR Parts 18 and 19
2 CFR 200 Appendix II (F)

Applicable to: *Applies ONLY to research projects financed by FTA which produces a patented or patentable invention, improvement, or discovery.* These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant City Utilities intellectual property access and licenses deemed necessary for the work performed under this contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with federal applicable requirements.

Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

30. ASSIGNABILITY CLAUSE

49 U.S.C. 5323(F)

49 CFR Part 605

Applicable to: All contracts

Procurements through assignments: Neither City Utilities nor the contractor shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other.

31. SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Not Applicable: Applies ONLY to States and Organizations that are being funded directly by the State with FTA grant funds. Currently, City Utilities receives its funding directly from FTA.

32. CONFORMANCE WITH NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE

23 U.S.C. § 517(d)
23 U.S.C. §502

Applicable to: Contracts funded in whole or in part by the Highway Trust Fund

Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements.

33. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

49 U.S.C. § 5307, § 5309, § 5310, § 5311, and § 5333(b)
29 CFR Part 215

Not Applicable: City Utilities does not currently hire externally for transit operation services.

34. CHARTER SERVICE OPERATIONS

49 U.S.C. 5323(d)
49 CFR Part 604

Not Applicable: City Utilities does not currently have any operational service contracts.

35. SCHOOL BUS OPERATIONS

49 U.S.C. 5323(F)
49 CFR Part 605

Not Applicable: City Utilities does not currently have any operational service contracts.